

This letter discusses fees included in gross receipts. See 86 Ill. Adm. Code 130.410. (This is a GIL.)

May 26, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 5, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This is to request a ruling of Illinois Department of revenue with respect to the application of sales and use tax under the situations described below, for our client, ABC, and its wholly owned subsidiary, XYZ

## **FACTS**

AAA, a division of XYZ, is in the business of manufacturing and selling large quantities of monogrammed products such as shirts, caps, etc. AAA has its sole manufacturing facilities in STATE, with products sold and shipped throughout the United States. AAA customers buy products for their own consumption. In certain instances, employees of AAA customers may purchase such merchandise, where the AAA customer provides its employees, a price subsidy for such purchases by making supplemental payments directly to XYZ. In addition to paying for the merchandise purchased, customers also pay certain other fees for services performed in conjunction with the purchase of such merchandise. Such other fees are described in detail below:

1. **Set-up fees:** These are one-time charges to design or adapt a logo/monogram. Such charges vary with the nature of customization involved. These are lump-sum fees and payable even if a customer decides not to order merchandise. Set-up fees are a

one-time charge and not applicable to subsequent merchandise orders using the same logo/monogram.

2. **Application Fees:** These fees are for application of the customized logos/monograms to the merchandise. Application fees are charged per item of merchandise.

3. **Rush Fees:** These are lump-sum fees for a rush order. A rush order is when a customer wants to receive the merchandise sooner than it would under the normal process. For a fee, AAA will move rush orders ahead of other orders.

4. **Gift Boxing:** A gift boxing service is available to all AAA customers for a per item charge. The cost of materials for such service is minimal compared to the total charge to the customer. Unlike gift-wrap, the customer receives a box that could be re-used.

5. **Minimum Charges:** These are lump-sum charges applied to a customer whose order is below a minimum quantity of merchandise.

All of the above services are performed at the AAA STATE facilities. All charges for these services are separately stated on customer invoices. For the purpose of this ruling, please assume that XYZ (and therefore AAA) has nexus in your state.

We request a ruling of your Department with respect to the application of sales and use tax to the above described fees when charged in conjunction with purchase of merchandise by a AAA customer for its own use and by an employee of AAA customer, when the AAA customer provides a price subsidy for the purchase of such merchandise by its employee.

For any questions about this matter, please contact me.

Illinois Retailers' Occupation Tax is imposed upon gross receipts from the sale of tangible personal property to end-users and gross receipts is defined to mean all the consideration received by sellers valued in money whether received in money or otherwise, but not including the value of or credits given for like kind traded-in property. In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410. The fact that labor charges may be separately stated does not mean they are not part of the selling price or gross receipts upon which the tax is measured. Set-up, application, rush and minimum charge fees generally are costs of doing business and are includable in gross receipts. See 130.401. Illinois does not tax the sale of personal services that do not involve the transfer of tangible personal property. Gift boxing fees are subject to the provisions of Section 130.450.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Jerilynn T. Gorden  
Deputy General Counsel  
Sales and Excise Taxes

JTG:msk